

Internal Revenue Service
P.O. Box 2508
Cincinnati, OH 45201

Department of the Treasury

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Release Date: 5/10/2013
Date: February 12, 2013

Employer Identification Number:

Contact person - ID number:

Contact telephone number:

LEGEND:

w = number
x = number
y = dollar amount

UIL: 4945.04-04

Dear _____ :

You asked for advance approval of your educational grant procedures under Internal Revenue Code section 4945(g)(3). This approval is required because you are a private foundation that is exempt from federal income tax.

Our determination

We approved your procedures for awarding individual grants. Based on the information you submitted, and assuming you will conduct your program as proposed, we determined that your procedures for awarding educational grants meet the requirements of Code section 4945(g)(3). As a result, expenditures you make under these procedures won't be taxable.

Description of your request

Your letter indicates that you will operate an individual grant program to support the development of fine artists and their work. Roughly w individuals will be eligible but only x grants will be awarded annually, generally not to exceed y dollars. Grants will be made on a one-time basis and are not renewable.

Any fine artist who is a citizen of the U.S. and is no longer a student is eligible. Grant recipients will be selected from among the potential grantees by reviewing previous artistic output and professional experience to assess the quality of his or her artwork and his or her artistic commitment, motivation, and potential. A grant recipient must either be an artist whose activities will make a contribution to the field, or whose funded artistic project will enhance the knowledge, or improve the talents and skills of the artist.

You will publicize and distribute information about the grant program using online networking and advertising tools that target artists and art professionals. You will also ensure that the information about the grant opportunity and application is available on your website. Emerging and mid-career artists will be targeted, especially those artists who have not received the recognition that their work deserves.

Your board will select grant recipients from among the individuals who submit completed applications. Applications will be reviewed each year by professional advisors who will be retained to make recommendations to your board. Advisors must have expertise in the fine arts and knowledge of current art making practices. Advisors are replaced annually and one board position rotates every three years. Methods used to replace selection members include referrals from active professionals in the field, scanning past grant recipients who are no longer eligible to receive funds but have a working knowledge of your mission, and through independent field research.

The grant funds will be disbursed directly to the grant recipient. However, you will withhold 10% of the grant until the grantee sends you a final report. Each grant recipient must agree in writing to a set of terms and conditions prior to receiving the grants. They are as follows:

- a) The grant may only used to advance the grantee's art making activities as described in the submitted proposal.
- b) The grantee will inform you immediately of any change in their plans.
- c) Any funds not used or committed for the specific purpose of the grant within the specified term must be returned to you unless otherwise authorized in writing.
- d) The grantee consents to the inclusion of their name in your printed literature and website and agrees to publicly acknowledge your support in all appropriate publicity materials related to supported artwork whenever possible.
- e) The grantee is responsible for sending you a final report within ten months of receiving funds. The report should consist of a description of how the funds were used, documentation of work created, and a close-out budget indicating how funding was spent. You will withhold a portion of the grant until this report is received.

You will (1) arrange to receive and review grantee reports annually and upon completion of the purpose for which the grant was awarded, (2) investigate diversion of funds from their intended purposes, and (3) take all reasonable and appropriate steps to recover the diverted funds, ensure other grant funds held by a grantee are used for their intended purposes, and withhold further payments to grantees until you obtain grantees' assurances that future diversions will not occur and that grantees will take extraordinary precautions to prevent future diversion from occurring.

You will maintain all records relating to individual grants including information obtained to evaluate grantees, identify a grantee is a disqualified person, establish the amount and purpose of each grant, and establish that you undertook the supervision and investigation of grants described above.

Basis for our determination

The law imposes certain excise taxes on the taxable expenditures of private foundations (Code section 4945). A taxable expenditure is any amount a private foundation pays as a grant to an individual for travel, study, or other similar purposes. However, a grant that

meets all of the following requirements of Code section 4945(g) is not a taxable expenditure.

- The foundation awards the grant on an objective and nondiscriminatory basis.
- The IRS approves in advance the procedure for awarding the grant.
- The grant is:
 - A scholarship or fellowship subject to section 117(a) and is to be used for study at an educational organization described in section 170(b)(1)(A)(ii); or
 - A prize or award subject to the provisions of section 74(b), if the recipient of the prize or award is selected from the general public; or
 - To achieve a specific objective; produce a report or similar product; or improve or enhance a literary, artistic, musical, scientific, teaching, or other similar skill or talent of the recipient.

To receive approval of its educational loan procedures, Treasury Regulations section 53.4945-4(c)(1) requires that a private foundation show:

- The grant procedure includes an objective and nondiscriminatory selection process.
- The grant procedure results in the recipients performing the activities the grants were intended to finance.
- The foundation plans to obtain reports to determine whether the recipients have performed the activities that the grants were intended to finance.

Other conditions that apply to this determination

- This determination covers only the grant program described above. This approval will apply to succeeding grant programs only if their standards and procedures don't differ significantly from those described in your original request.
- This determination applies only to you. It may not be cited as precedent.
- You cannot rely on the conclusions in this letter if the facts you provided have changed substantially. You must report any significant changes in your program to the Office of Exempt Organizations at:

Internal Revenue Service
Exempt Organizations Determinations

- You cannot make grants to your creators, officers, directors, trustees, foundation managers, or members of selection committees or their relatives.

- All funds distributed to individuals must be made on a charitable basis and must further the purposes of your organization. You cannot award grants for a purpose that is inconsistent with Code section 170(c)(2)(B).
- You should keep adequate records and case histories so that you can substantiate your grant distributions with the IRS if necessary.

Please keep a copy of this letter in your records.

If you have any questions, please contact the person listed at the top of this letter.

Sincerely,

Holly O. Paz
Director, Exempt Organizations
Rulings and Agreements